

REMARKS:

Claims 24 and 35 have been canceled.

Claims 1-23, 25-34, and 36-44 are pending in the application.

The Office objected to the specification, specifically the abstract of the disclosure, for having improper implied phrases. The abstract of the disclosure has been amended now to delete these phrases.

Applicants believe the objections to the specification have been rendered moot in light of the above amendments. Therefore, Applicants respectfully request the Office withdraw all objections to the specification.

The Office rejected claims 1-8 and 12-44 under 35 U.S.C. 102(b) as being anticipated by Fischer et al. US 5,881,828). Applicants respectfully traverse this rejection. Applicants believe that the Office does not appreciate the small, but very important difference between Fischer et al. and the present invention. Referring now to Figure 7 of the present specification, and the supporting text of paragraphs [0030] and [0031] in the specification, quoting paragraph [0030] of the specification,

"As shown therein, the insert 100 is comprised of the rounded corner region 104, the generally cylindrical section 105, the radiused region 106 and the tapered surface 107. Also depicted in Figure 7 is a dashed line which indicates a portion of the structure of the prior art insert 20 depicted in Figures 3 and 4. Specifically, the tapered surface 64 and rounded corner 65 of the insert 20 depicted in Figure 3 are indicated by the dashed lines."

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By comparison, the illustration reproduced from US 5,881,828 by the Examiner in the Office Action shows nothing more than what Applicants have already admitted as prior art. That is, that the dashed line indicated in the present specification with numerals 64 and 65 is very similar and functionally identical to the frustro-conical shaped surface referred to by numeral 21 in the Examiner's illustration shown in the Office Action.

Applicants note, however, that although it may be unlikely, the frustro-conical shaped surface 21 in the illustration could be construed as generally cylindrical. Therefore, in order to clearly and distinctly point out this important structural and functional difference, claims 1-6, 11, 13, 14, 16, 19, 20, 23, 25, 29-32, 34, 36, 38, and 40-43 have been amended now to state that it is a cylindrical section, rather than substantially cylindrical section positioned between the bottom surface and tapered surface.

In addition, claims 23 and 34 have been re-written now to include this cylindrical section, and original dependent claims 24 and 35 have been canceled now to avoid duplication.

The utility of this invention is derived from the small, but very important difference described above – which is novel and non-obvious over all the disclosed references. For as the Examiner well knows, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaack, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

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With respect to alleged obviousness, there must be something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

It is clear that Fischer et al. does not meet these criteria.

Accordingly, applicants believe that claims 1-8, 12-23, 25-34 and 36-44 are now allowable over Fischer et al, and therefore request allowance of these claims.

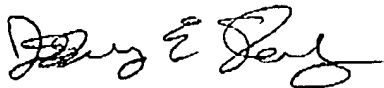
The Office rejected claims 9-11 under 35 U.S.C. 103(a) as being unpatentable over Fischer et al. (US 5,881,828). Since claims 9-11 now depend from allowable base claim 1, Applicants believe that these claims are also allowable, and respectfully request allowance of these claims.

In view of the amendments made herein, Applicants respectfully submit that the application is now in condition for allowance. Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

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Please charge Deposit Account No. 180584 in the amount of \$120, the fee required under 37 CFR 1.17(a)(1) for a one month extension for time. It is believed that there are no other fees due at this time. However, the Commissioner is hereby authorized to charge any fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account 180584. If there are any questions concerning the above, please contact the undersigned at (281) 878-5658.

Respectfully submitted,



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